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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,447	12/26/2000	Thomas Kotlarski	1354	9034
7590 09/13/2004		EXAMINER		
Striker Striker & Stenby		GRAHAM, GARY K		
103 East Neck Road		ART UNIT		
Huntington, NY 11743		PAPER NUMBER		

1744

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/674,447	KOTLARSKI ET AL.	
	Examiner	Art Unit	
	Gary K Graham	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-13 and 15 is/are rejected.
- 7) ☒ Claim(s) 7 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08122004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12 August 2004 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6, 8, 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merkel et al (German patent 19627115) in view of Rosen (US patent 3,659,310).

The patent to Merkel discloses the invention substantially as is claimed, including a wiper blade (10) having wiping strip (14) with longitudinal grooves into which separate carrying rails (42) engage. The rails engage a longitudinal web defined between the two grooves. A connection device formed as a holder (66), for attaching to a wiper arm (18), engages the rails on both upper and lower surfaces thereof intermediate the ends of the blade (fig.2). Said holder has first and second L-legs engaging a respective rail.

The patent to Merkel discloses all of the above recited subject matter with the exception of the holder pressing on the rails, by virtue of the rails and web being wider than the distance between the L-legs, to compressing the longitudinal web, and the holder being made of plastics or metal.

The patent to Rosen discloses compression of the web (19) by rails (17) to secure the wiper strip (12) to the rails and thus holder (14).

It would have been obvious to one of skill in the art to have the holder of Merkel grip the rails such that they compress the longitudinal web, as clearly suggested by Rosen, to provide a more secure connection between the holder and the blade. Such compression would mean that the widths are as claimed.

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With respect to claims 8 and 9, while Merkel is silent as to the particular material of the holder, such material would be an obvious choice of design. The particular material employed would be more a choice of the manufacturer based more on the availability of such materials than on any inventive step. Further, use of both plastics and metal is notoriously well known in the automotive field. It would have been obvious to one of skill in the art to employ any material so desired for the holder, including as is claimed, lacking any criticality of such material.

Claims 1-6, 8-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merkel et al (German patent 19627115) in view of Oishei et al (US patent 3,386,123).

The patent to Merkel discloses the invention substantially as is claimed, including a wiper blade (10) having wiping strip (14) with longitudinal grooves into which separate carrying rails (42) engage. The rails engage a longitudinal web defined between the two grooves. A connection device formed as a holder (66), for attaching to a wiper arm (18), engages the rails on both upper and lower surfaces thereof intermediate the ends of the blade (fig.2). Said holder has first and second L-legs engaging a respective rail.

The patent to Merkel discloses all of the above recited subject matter with the exception of the holder pressing on the rails, by virtue of the rails and web being wider than the distance between the L-legs, to compressing the longitudinal web, and the holder being made of plastics or metal.

The patent to Oishei discloses compression of the web (40) by rails (31) to secure the wiper strip (29) to the rails and thus holder (10). Oishei also teaches providing projections (35) on the rails.

It would have been obvious to one of skill in the art to have the holder of Merkel grip the rails such that they compress the longitudinal web, as clearly suggested by Oishei, to provide a more secure connection between the holder and the blade. Such compression would mean that the widths are as claimed. The rails of Merkel could also be provided with projections, as clearly suggested by Oishei, to improve gripping of the web by the rails.

With respect to claims 8 and 9, while Merkel is silent as to the particular material of the holder, such material would be an obvious choice of design. The particular material employed would be more a choice of the manufacturer based more on the availability of such materials than on any inventive step. Further, use of both plastics and metal is notoriously well known in the automotive field. It would have been obvious to one of skill in the art to employ any material so desired for the holder, including as is claimed, lacking any criticality of such material.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merkel et al (German patent 19627115) in view of Oishei et al (US patent 3,386,123) as applied to claims 1 and 10 above, and further in view of Samartgis (US patent 5,713,100).

The patents to Merkel and Oishei disclose all of the above recited subject matter with the exception of the projections being offset wherein one is located opposite a recess in the other rail.

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The patent to Samartgis discloses providing the rails (13) with offset projections (12a, 12b). The offset projections align the projection (12b) with a recess formed between the two projections (12a).

It would have been obvious to one of skill in the art to offset the projections provided in the modified Merkel wiper blade, as clearly suggested by Samartgis, to increase the security of the connection between the rails and the wiper strip.

Response to Arguments

Applicant's arguments with respect to claims 1 and 15 have been fully considered but are moot in view of the new ground(s) of rejection. As stated above, Merkel discloses the connection device (66) that is in contact with the carrying element (42) on upper and lower sides. While Merkel does not disclose compression of the web, such is clearly taught by both Rosen and Oishei.

Allowable Subject Matter

Claims 7 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Gary K Graham', is positioned above the printed name.

Gary K Graham
Primary Examiner
Art Unit 1744

GKG
07 September 2004